



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
--------------------	-------------	-----------------------	---------------------

08/949,366 10/14/97 SORENSEN

S 424.83US01

PM92/0714
MERCHANT GOULD SMITH EDELL
WELTER & SCHMIDT
3100 NORWEST CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-4131

EXAMINER

ART UNIT	PAPER NUMBER
----------	--------------

3651

8

DATE MAILED:

07/14/99

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-130 is/are pending in the application.
- Of the above, claim(s) _____ is/are withdrawn from consideration.
- ☒ Claim(s) 90-130 is/are allowed.
- ☒ Claim(s) 1-9, 11-13, 18-21, 23, 24, 26, 27, 34-48, 50-59, 63-69, 71, 72, 85-88 is/are rejected.
- ☒ Claim(s) 10, 14-17, 22, 25, 28-33, 49, 60-62, 70, 73-84 and 89 is/are objected to.
- ☐ Claims _____ are subject to restriction or election requirement.

Application Papers

- ☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☒ Notice of Reference Cited, PTO-892
- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 8
- ☐ Interview Summary, PTO-413
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

- SEE OFFICE ACTION ON THE FOLLOWING PAGES -

Art Unit: 3651

1. The provisional election has been received, however, in view of applicant's remarks regarding the traversal of the restriction, the restriction is hereby withdrawn and the following office action regarding claims 1-130 is set forth.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

3. (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-6, 8, 9, 12, 13, 18, 37, 42-48, 50, 55-59, 63 and 64 are rejected under 35 U.S.C. 102(b) as being anticipated by Taylor et al.

Taylor et al discloses the apparatus to effect the method of a beverage dispenser. The dispenser has inclined shelves 4 and a hold-back, escapement device II which releases a bottle on an aligned "robotic" assembly 6 which positions itself adjacent the escapement device to receive a bottle and deliver it to a port 2. In regard to claims 63 and 64 note in page 3 the use of a sensor to detect the absence (presence) of a bottle and customer input "stimuli" (buttons 3).

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3651

6. Claims 7 and 51-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor et al in view of Spamer.

To so provide that Taylor et al's shelves would be adjusted, vertically or by angle, would be obvious not only as a mere choice to so structurally orient or arrange the shelves, as so desired, but Spamer also shows in figure 1 the shelves 24,25 having both vertical and horizontal adjustments.

7. Claims 11, 19-21,23,24,26,27,34-36,38-41,65-69,71,72,87 and 88 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor et al in view of Trouteaud et al.

In regard to the door in claim 11 and the transparent view panel of claims 19,20,27,65, to provide the dispenser in Taylor et al with such features would be obvious in view of the teachings of Trouteaud et al which shows in figure 2 the pivoted door 145 for the delivery part, as well as, transparent viewing panels 56 in figure 1 to view and select the product. In regard to claim 71, note in figure 12 the use the door lock 150,162 to be unlocked upon the presence of a product at the dispensing port. Finally, in regard to claims 26,34-36,66 and 67 to so arrange the delivery part at a given height, as greater than 27" above the support, or to so vend products varying in size, shape or weight would be obvious as a mere choice of structural arrangement to so position the delivery port at any given height, and as a mere choice of utility to so vend any type of product, as so desired, and, therefore, these design or utility features are not afforded any patentable weight.

Art Unit: 3651

8. Claims 85 and 86 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor et al in view of Trouteaud et al as applied to claims 11, 19-21, 23, 24, 26, 27, 34-36, 38-41, 65-69, 71, 72, 87 and 88 above, and further in view of Hieb et al.

To modify Taylor et al's support (shelves) to facilitate products of various sizes or shapes would be obvious in view of the teachings of Hieb et al which discloses in col. 3, lines 9-15 the desired use of converting the supports for dispensing assorted shapes or sizes of products.

9. Claims 10, 14-17, 22, 25, 28-33, 49, 60-62, 70, 73-84 and 89 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Claims 90-130 are allowed.

Noland/oc
July 13, 1999

Kenneth W. Noland 7/13/99
KENNETH W. NOLAND
PRIMARY EXAMINER
A.U. 3651